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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HECTOR ROMO, ISAI LANDA
ARCILA, OLGA ANGUINA ESPINOZA,

Plaintiffs,

vs.

JOSE MUNOZ dba TAQUERIA
CONSUELITO and DOES 1-10, inclusive,

Defendants.

Case No. C 08-002613 PVT

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT**

Pursuant to the Standing Order for all Judges of the Northern District of California, and
Local Rule 16-9, Plaintiffs HECTOR ROMO, ISAI LANDA ARCILA, and OLGA ANGUINA
ESPINOZA, and Defendant JOSE MUNOZ dba Taqueria Consuelito submit the within Joint Case
Management Conference Statement , as follows:

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1 **1. Jurisdiction and Service**

2 Plaintiffs have brought 7 causes of action, one of which is based on the Fair Labor
3 Standard Act, 29 USC Section 201 (FLSA). Jurisdiction is based on that sole FLSA claim.

4 All Parties have been served with the Complaint.

5 **2. Facts**

6 Plaintiffs assert that Defendant failed to properly pay Plaintiffs overtime wages for all
7 hours worked in violation of the FLSA and California Labor Code Sections 510 and 1194, failed
8 to pay Plaintiffs all wages that they were due at the time of their termination in violation of
9 California Labor Code Sections 201 and 203, failed to provide off- duty meal periods as required
10 by Labor Code Section 226.7, and that Defendant negligently retained, supervised and trained its
11 supervisory employees.

12 Defendant denies that Plaintiffs are entitled to overtime as alleged in the complaint and
13 further denies that Plaintiffs failed to receive meal periods and denies that it is guilty of any
14 negligence with regard to supervising, training or retaining any employees.

15 **3. Legal Issues**

16 Among the issues the parties anticipate arising in this action include several issues
17 regarding state and federal overtime law. See, California Labor Code Sections 510 and 1194, and
18 29 USC Section 201 et. seq.

19 In addition, the parties expect that there will be legal issues arising from the meal period
20 claim. See, California Labor Code Section 226.7 and Brinker Restaurant Corp. v. Superior Court,
21 165 Cal. App. 4th 25 (2008).

22 **4. Motions**

23 There are no prior or pending matters.

24 Plaintiff expects to bring motions for summary judgment/summary adjudication.

25 Defendant expects to bring a motion for summary judgment/summary adjudication on
26 several of the claims. Defendant may also bring a motion to have each of the Plaintiff's claims
27 heard as separate individual actions because their claims are not based on the same set of facts and
28 circumstances.

1 **5. Amendment of Pleadings**

2 Neither party expects to file amended pleadings at this time.

3 **6. Evidence Preservation**

4 The parties have been counseled to preserve any physical documents and records. The
5 parties do not believe that there are any electronically stored materials that will be involved in this
6 matter.

7 **7. Disclosure**

8 The parties are in the process of preparing disclosures to one another in anticipation of the
9 private mediation that the parties are attempting to schedule in late September. (See Section 12,
10 below.) The parties anticipate making such disclosures two weeks in advance of the mediation
11 date.

12 **8. Discovery**

13 No discovery has been undertaken to date. The parties desire to forego preparing an
14 extensive discovery plan until they have attempted to mediate the within matter. Should
15 mediation fail, a discovery plan pursuant to Rule 26(f) will be filed forthwith.

16 **9. Class Action**

17 Not applicable

18 **10. Related Cases**

19 Not applicable

20 **11. Damages**

21 Plaintiff is still estimating the potential damages that will be claimed in the matter.

22 **12. Settlement and ADR**

23 As noted above in Sections 7 and 8, the parties would like to devote their immediate efforts
24 towards conducting a private mediation early in the litigation, with the hope that such mediation
25 will resolve the matter or, at the very least, narrow the issues considerably. Accordingly, the
26 parties have contacted the Honorable Mark Eaton (Ret.) through ADR Services, Inc. and are in the
27 process of determining a mutually agreeable date to mediate the matter. The parties are targeting
28 this mediation for late September 2008.

13. Consent to Magistrate Judge

The parties consent to have a Magistrate Judge conduct all future proceedings.

14. Other References

The case is not suitable to reference to another proceeding such as binding arbitration.

15. Narrowing of Issues

It is premature at this time for the parties to determine which factual and legal issues might be resolved at this time by agreement or motion.

16. Expedited Schedule

This does not appear to be an action that should be handled on an expedited basis.

17. Scheduling

The parties suggest the following schedule:

- a. Trial in July 2009
- b. Pre-Trial Conference two weeks prior to trial
- c. Discovery Cut-Off June 2009
- d. Hearing of Dispositive Motions - May 2009
- e. Discovery Cut-off – 45 days prior to trial

18. Trial

Plaintiff requests a jury trial. Defendant does not desire a jury trial.

19 Disclosure of Non-Party Interested Entities or Persons

Neither party has filed the “Certification of Interested Entities or Persons” because the parties are unaware of any such entities or persons in this matter.

20. Other matters

Defendant requests that the Court reset the matter for another status conference in 120 days, to permit the parties to engage in the mediation session and allow for any necessary follow up to the mediation.

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1 Dated: September 3, 2008.

LAW OFFICES OF JAMES DAL BON

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/jdb

JAMES DAL BON

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Attorneys for Plaintiffs,

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HECTOR ROMO, ISAI LANDA ARCILA, OLGA

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ANGUINA ESPINOZA

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8 Dated: September 3, 2008.

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/jgm

JEFFREY G. McCLURE

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Attorneys for Defendant,

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JOSE MUNOZ dba TAQUERIA CONSUELITO

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